



February 1, 2001

HOUSE BILL No. 1147

DIGEST OF HB 1147 (Updated January 31, 2001 2:29 PM - DI 77)

Citations Affected: IC 16-41; IC 20-5.

Synopsis: Smoking at schools and child care centers. Prohibits smoking at a child care center, on public school property, or certain day care facilities that accept federal child care vouchers. Allows smoking at a public school in a area that is separate from the building, is not accessible to students, and is screened from the view of students. Except for field trips, prohibits a public school from entering into a contract or an agreement to hold an official school sponsored activity unless the part of the facility that will be used prohibits smoking and use of tobacco products. Provides penalties for smoking and using tobacco products in a facility that is used for an official school sponsored activity when signs prohibiting smoking are conspicuously posted.

Effective: July 1, 2001.

Hasler, Becker, Welch, Dillon

January 9, 2001, read first time and referred to Committee on Public Health.
January 31, 2001, amended, reported — Do Pass.

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HB 1147—LS 7359/DI 77+



February 1, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1147

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 16-41-37-2.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2001]: **Sec. 2.5. As used in this chapter,**
4 **"public school property" means property that is owned by a public**
5 **school (as defined in IC 20-10.1-1-2).**

6 SECTION 2. IC 16-41-37-4 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. A person who:

8 **(1) smokes:**

9 **(1) (A)** in a public building, except in an area designated as a
10 smoking area under section 5 of this chapter;

11 **(2) (B)** in the retail area of a grocery store or drug store that is
12 designated as a nonsmoking area by the store's proprietor; or

13 **(3) (C)** in the dining area of a restaurant that is designated and
14 posted as the restaurant's nonsmoking area by the restaurant's
15 proprietor; **or**

16 **(2) smokes or uses a tobacco product on public school**
17 **property, except as provided in section 5(d) of this chapter;**

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commits a Class B infraction. However, the violation is a Class A infraction if the person has at least three (3) previous unrelated judgments for violating this section **or IC 20-5-2-9** that are accrued within the twelve (12) months immediately preceding the violation.

SECTION 3. IC 16-41-37-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) **Except as provided in subsection (d)**, the official in charge of a public building shall designate a nonsmoking area and may designate a smoking area in the building.

(b) When smoking and nonsmoking areas are designated, the official in charge of a public building may take reasonably necessary measures to accommodate both smokers and nonsmokers.

(c) If a public building consists of a single room, any part or all of the room may be reserved and posted as a nonsmoking area.

(d) Except for a designated area that is not part of a school building that is not accessible to students and that is screened from the view of students, the official in charge of a building used as:

(1) a public school (as defined in IC 20-10.1-1-2);

(2) a child care center licensed under IC 12-17.2; or

(3) a child care home licensed under IC 12-17.2 or a child care ministry registered under IC 12-17.2 that accepts reimbursement through the federal Child Care and Development Fund voucher program (45 CFR 98 and 45 CFR 99);

may not designate a smoking area in the building.

SECTION 4. IC 16-41-37-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. (a) The official in charge of a public building **or public school property** shall do the following:

(1) Post conspicuous signs that read "Smoking Is Prohibited By State Law Except In Designated Smoking Areas" or other similar language.

(2) Request persons who are smoking in violation of section 4 of this chapter to refrain from smoking.

(3) Remove a person who is smoking **in a public building** in violation of section 4 of this chapter and fails to refrain from smoking after being requested to do so.

(b) The proprietor of a restaurant shall, under sections 4 and 5 of this chapter, post conspicuous signs at each entrance to the restaurant, informing the public of the establishment's smoking policy.

(c) The official in charge of public school property may remove a person who is smoking on school property in violation of section

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1 4 of this chapter and fails to refrain from smoking after being
2 requested to do so.

3 SECTION 5. IC 20-5-2-9 IS ADDED TO THE INDIANA CODE
4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
5 1, 2001]: Sec. 9. (a) As used in this section, "smoking" has the
6 meaning set forth in IC 16-41-37-3.

7 (b) This section does not apply to school sponsored field trips.

8 (c) A school corporation may not enter into a contract or an
9 agreement to conduct an official school sponsored activity at a
10 public or private facility unless the facility:

11 (1) prohibits smoking and the use of tobacco products in the
12 part of the facility that will be used for the official school
13 sponsored activity, including restrooms and hallways, while
14 the activity is being conducted; and

15 (2) conspicuously posts signs that indicate that smoking and
16 the use of tobacco products is prohibited.

17 (d) A person who smokes or uses tobacco products in the part
18 of a facility that is being used for an official school sponsored
19 activity where signs are conspicuously posted indicating that
20 smoking or the use of tobacco products is prohibited commits a
21 Class B infraction. However, the violation is a Class A infraction
22 if the person has at least three (3) prior unrelated judgments for
23 violating this section or IC 16-41-37-4 that are accrued within the
24 twelve (12) months immediately preceding the violation.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1147, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 7, after "who" insert ":".

Page 1, line 8, before "smokes" begin a new line block indented and insert **"(1)"**.

Page 1, line 9, beginning with "(1)" begin a new line double block indented.

Page 1, line 9, strike "(1)" and insert **"(A)"**.

Page 1, line 11, beginning with "(2)" begin a new line double block indented.

Page 1, line 11, strike "(2)" and insert **"(B)"**.

Page 1, line 12, reset in roman "or".

Page 1, line 13, beginning with "(3)" begin a new line double block indented.

Page 1, line 13, strike "(3)" and insert **"(C)"**.

Page 1, line 16, delete "(4)" and insert **"(2) smokes or uses a tobacco product"**.

Page 2, line 15, delete "room in a public school" and insert **"designated area that is not part of a school building"**.

Page 2, line 16, delete "ventilated to the outside of the building" and insert **"screened from the view of students"**.

Page 2, line 18, delete "or".

Page 2, line 19, after "IC 12-17.2;" insert **"or"**.

Page 2, between lines 19 and 20, begin a new line block indented and insert:

"(3) a child care home licensed under IC 12-17.2 or a child care ministry registered under IC 12-17.2 that accepts reimbursement through the federal Child Care and Development Fund voucher program (45 CFR 98 and 45 CFR 99);"

Page 2, line 30, after "smoking" insert **"in a public building"**.

Page 2, between lines 35 and 36, begin a new paragraph and insert:

"(c) The official in charge of public school property may remove a person who is smoking on school property in violation of section 4 of this chapter and fails to refrain from smoking after being requested to do so."

Page 2, between lines 39 and 40, begin a new paragraph and insert:

"(b) This section does not apply to school sponsored field trips."



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Page 2, line 40, delete "(b)" and insert "(c)".

Page 3, line 1, after "smoking" insert "**and the use of tobacco products**".

Page 3, line 5, after "smoking" insert "**and the use of tobacco products**".

Page 3, line 7, delete "(c)" and insert "(d)".

Page 3, line 7, after "smokes" insert "**or uses tobacco products**".

Page 3, line 9, after "smoking" insert "**or the use of tobacco products**".

and when so amended that said bill do pass.

(Reference is to HB 1147 as introduced.)

BROWN C, Chair

Committee Vote: yeas 13, nays 0.

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